

# **EXHIBIT B**

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UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

CA NO. 04-12382 (RCL)

\*\*\*\*\*  
GETRONICS WANG CO., LLC, \*  
Plaintiff, \*  
\*  
v. \*  
\*  
HYNIX SEMICONDUCTOR, INC., and \*  
SAMSUNG ELECTRONICS CO., LTD., \*  
Defendants. \*  
\*\*\*\*\*

DEPOSITION OF ANTHONY P. PAOLILLO,  
taken pursuant to Rule 30(b)(6) of the Federal  
Rules of Civil Procedure, before Susan L.  
Prokopik, Registered Merit Reporter and Notary  
Public in and for the Commonwealth of  
Massachusetts, at the offices of Nixon Peabody  
LLP, 100 Summer Street, Boston, Massachusetts, on  
Wednesday, September 28, 2005, at 9:19 a.m.

KACZYNSKI REPORTING  
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APPEARANCES:

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PROCEEDINGS

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MR. SHERMAN: The stipulations are that

all objections except as to the form of the

question and motions to strike will be reserved

until the time of trial. The witness will read

and sign the deposition within 30 days of the

receipt of the transcript by Mr. Harvell. That

takes care of it.

MR. HARVELL: Mm-hmm.

MR. SHERMAN: Can you just swear the

witness in, if you would.

ANTHONY P. PAOLILLO

having been satisfactorily identified and duly

sworn by the Notary Public, was examined and

testified as follows:

EXAMINATION BY MR. SHERMAN:

Q. Is it Mr. Paolillo?

A. You said it very well.

Q. Paolillo?

A. Yes.

Q. Okay. I want to make sure I got it right.

A. Yeah. That's fine.

Q. My name is Rob Sherman. With me is Gordon Jones.

2 (Pages 2 to 5)

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1 MR. HARVELL: Did you say '89?  
 2 THE WITNESS: Yeah.  
 3 Q. Was there any --  
 4 THE WITNESS: I believe so.  
 5 Q. -- particular area of emphasis in your MBA degree  
 6 program? Just --  
 7 A. Business management. That's it.  
 8 Q. Do you have any particularized training in  
 9 taxation or --  
 10 A. I've been in the business for going on 25 years  
 11 at least. And I worked for the Department of  
 12 Revenue, Massachusetts for five years when I  
 13 first got out, first started out of college.  
 14 From there, I worked at Compugraphic. I was a  
 15 tax manager at Compugraphic for four years. And  
 16 I've been involved with Getronics since then.  
 17 Like I said, I also worked at KPMG. So if that's  
 18 considered training, that's part of --  
 19 Q. Sure. You're not a CPA?  
 20 A. I'm not, no.  
 21 Q. What years did you work for the DOR?  
 22 A. Oh, God.  
 23 Q. You graduated from college in 1977?  
 24 A. I got to think a little bit here. Let me see.

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1 So -- I think it was '78 through -- '82.  
 2 Q. Fine.  
 3 A. '83.  
 4 Q. Something like that. Then you went to  
 5 Compugraphic from '82 to '86?  
 6 A. Yes.  
 7 Q. You were a four-year kind of guy?  
 8 A. That's right. Other than Getronics.  
 9 Q. Okay.  
 10 (12/22/89 letter and attachments marked  
 11 Exhibit No. 2.)  
 12 Q. Mr. Paolillo, I've provided you with an Exhibit  
 13 2, which is a document, a letter dated December  
 14 22, 1989 from Michael Shanahan to KH Kim, chief  
 15 executive officer of Samsung Semiconductor. And  
 16 let me -- with several attached pages. Let me  
 17 ask you whether or not you have ever seen this  
 18 document before, if you recall.  
 19 A. I have not seen this document, no.  
 20 Q. Did you review this document in connection with  
 21 today's deposition?  
 22 A. I have not seen this. I did not get to this  
 23 document, no.  
 24 Q. Okay. Let me just represent to you that this is

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1 the earliest in time of the documents that we  
 2 received in production from the plaintiff.  
 3 A. Okay.  
 4 Q. And I want to know whether or not you're aware of  
 5 any earlier correspondence or communication with  
 6 any of the three entities; that is to say,  
 7 Samsung, GoldStar or Hyundai, earlier than this  
 8 dated December of 1989.  
 9 A. No, I'm not.  
 10 Q. By reviewing this document, are you aware as to  
 11 whether or not in 1989 there was a patent suit  
 12 outstanding against any parties in relation to  
 13 the SIMMs patents?  
 14 A. My direct knowledge, I can't recall that there  
 15 was an outstanding patent suit.  
 16 Q. Okay. You understand this just from reading it,  
 17 however, to be a letter from Mr. Shanahan who was  
 18 then the patent counsel at Wang informing Samsung  
 19 that Wang held a patent for SIMMs technology and  
 20 was requesting that Samsung consider a license?  
 21 A. Right.  
 22 Q. Right?  
 23 A. I understand, yes.  
 24 Q. Okay. We're going to fly through some of these.

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1 You were at Wang at the time in the -- broadly,  
 2 were you in the tax department? Is that what it  
 3 would be?  
 4 A. Yes.  
 5 MR. HARVELL: When you say "at that  
 6 time," you're referring to the date of Exhibit 2?  
 7 MR. SHERMAN: Sorry. Exhibit 2.  
 8 Q. Were you aware of any discussions about a  
 9 strategy by Wang to secure licenses from various  
 10 manufacturers of SIMM -- semiconductors for the  
 11 SIMM technology?  
 12 A. Of course I was in the tax department but I was  
 13 aware that the legal department or the company as  
 14 a whole had made statements even publicly that  
 15 they were actually looking towards people  
 16 utilizing some of the patents that they had  
 17 already set up. SIMMs patents and other patents  
 18 I believe, too. But SIMMs was the biggest one.  
 19 I was aware. I mean, it was a constant  
 20 public -- it was a constant public knowledge that  
 21 that was going on.  
 22 Q. Was it seen as a revenue strategy?  
 23 A. In my opinion, it was not at first. Then I think  
 24 I believe it became but at first, I believe they

9 (Pages 30 to 33)

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<p style="text-align: right;">Page 34</p> <p>1 really felt that they were -- their technology  2 was being stolen.  3 Q. Okay. But at some point it became a program to  4 try to generate revenue through licensing?  5 A. Yes. With the company on the down side of  6 things, it became a source of income.  7 Q. Okay. Want some water?  8 A. Yes.  9 Q. Let me just look at this for one second.  10 Okay. Let's do this.  11 (11/11/91 letter and attachments marked  12 Exhibit No. 3.)  13 Q. I'm going to show you a document which is marked  14 as Exhibit No. 3. And it's a multi-page  15 document.  16 A. Mm-hmm.  17 Q. Let me identify it by Bates number because I  18 think it will help the reporting. It bears a  19 prefix of GW, which indicates that it was  20 produced by the plaintiff, GetronicsWang, and the  21 last four digits begin with 3823 and end at 3835.  22 And let me ask you if you can identify this.  23 A. This is just the standard patent agreement that  24 Wang Laboratories I believe had with Samsung.</p>	<p style="text-align: right;">Page 36</p> <p>1 patent. And then as they investigated more about  2 it, they found that there were more and more  3 companies that in fact were infringing upon this  4 patent. And we felt that -- at the time Wang  5 felt that we needed to stop them and we needed to  6 get some royalty payments for that infringement.  7 Q. Okay.  8 A. And they just kept adding to the list as they  9 went through it. And --  10 Q. Now, the time of this is November 11, 1991.  11 Exhibit 2 that we looked at just before is  12 December 22, '89. We're talking about an almost  13 two-year period --  14 A. Mm-hmm.  15 Q. -- between correspondence between Wang on the one  16 hand and Samsung on the other. Are you familiar  17 with -- do you have any understanding as to what,  18 if anything, happened between the companies  19 during this two-year period? Were there any  20 other discussions, for example, that you're aware  21 of?  22 A. As far as I -- based on my research, not on my  23 knowledge, that I haven't seen anything that  24 showed any correspondence between '89 and '91</p>
<p style="text-align: right;">Page 35</p> <p>1 Q. You mean standard license agreement?  2 A. License agreement. I apologize.  3 Q. Okay. Now, this is dated November 11, 1991,  4 right?  5 A. The letter is, yes.  6 Q. Exactly. And do you see if you look on, again,  7 at the letter, this refers to the trial of the  8 patent case involving NEC and Toshiba. Do you  9 see that in the second paragraph?  10 A. Yes, I do.  11 Q. You were aware, were you not, that Wang brought a  12 patent infringement action against NEC and  13 Toshiba which was tried somewhere in Virginia and  14 it resolved at least in part on Wang's favor?  15 A. Correct. Yes.  16 Q. Okay. This is now following up with Samsung  17 about a potential license and informing Samsung  18 of the resolution of that patent infringement  19 action. Was the patent infringement action  20 against NEC and Toshiba part of the strategy of  21 trying to kind of promote license agreements with  22 various manufacturers of SIMMs?  23 A. In my opinion what had happened is that they had  24 uncovered an infringement of this particular</p>	<p style="text-align: right;">Page 37</p> <p>1 that I can remember.  2 Q. Mr. Paolillo, I appreciate your attempting to  3 answer these as completely as you can. Some of  4 the areas, questions you don't have personal  5 knowledge on. Some you've had to try to research  6 or look at documents. But you do understand, do  7 you not, that your testimony as a 30(b)(6)  8 designee binds GetronicsWang in this case? That  9 is, you're testifying as the company in this  10 case?  11 A. I understand.  12 Q. Fine. Okay. Now, attached to the letter of  13 November 11th is a -- looks to be a draft license  14 agreement, right?  15 A. Yes.  16 Q. And is it your -- I think you referred to this as  17 a standard Wang license. Is it your  18 understanding then that the drafting of this was  19 done by Wang? Somebody at Wang.  20 A. Either somebody at Wang or an outside attorney.  21 Q. Or somebody for Wang?  22 A. Hired by Wang, yes.  23 Q. But I'm asking you, by contrast to Samsung. In  24 other words, it was Wang's draft to the best of</p>

10 (Pages 34 to 37)

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1 the prefix GW beginning at 226 and ending at 244  
 2 and ask you if you can identify this as the  
 3 license agreement between Wang Laboratories and  
 4 GoldStar Electronic Company.

5 A. Yes.

6 Q. And if you'll look on the last page and note, I  
 7 take it, that it's executed?

8 A. Yes.

9 Q. The date of this agreement is -- doesn't actually  
 10 have a date at the top but the month is March of  
 11 1992. Do you see that?

12 A. Yes.

13 Q. And so this was negotiated and executed in the  
 14 same time frame as the Samsung agreement?

15 A. Correct.

16 Q. And we're going to distinguish this from the  
 17 Hyundai agreement, which you'll see later was  
 18 sometime later. Over a year later.

19 A. Mm-hmm.

20 Q. Now, have you reviewed this agreement --

21 A. Yes.

22 Q. -- in connection with both the Competent  
 23 Authority proceeding as well as in connection  
 24 with preparation for today?

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1 Kim, at Samsung to Thomas J. Scott at Howrey,  
 2 H O W R E Y, and Simon dated May 15, 1992 with an  
 3 attached fax cover sheet, Bates stamp number 1654  
 4 and 1655. Can you identify it as such?

5 A. Yes.

6 Q. Okay. Now, first of all, who is Thomas Scott?

7 A. I don't know.

8 Q. How about who is Howrey and Simon?

9 A. I believe they were the attorneys we were using  
 10 in reference to this -- these cases.

11 Q. When you say "in reference to these cases," what  
 12 do you mean?

13 A. I mean assisting us with the patent infringement  
 14 cases.

15 Q. You understand Howrey and Simon litigated the  
 16 patent infringement cases?

17 A. I believe they assisted. I'm not sure they were  
 18 sole attorneys.

19 Q. Okay. And this is with respect to the Samsung  
 20 agreement and you'll note that it says that the  
 21 government did approve the Samsung/Wang license  
 22 agreement on May 12th, which under the terms of  
 23 the agreement would make that the effective date,  
 24 correct?

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1 A. Yes. Sorry. Yes.

2 Q. Okay. And do you have an understanding -- we'll  
 3 try to short circuit this -- that the provisions  
 4 that I was referring to in the Samsung agreement  
 5 -- and here it would be so-called late payment,  
 6 attorneys' fees, losers pay, taxes to be withheld  
 7 and payment in US dollars -- in the GoldStar  
 8 agreement are identical to those in the Samsung  
 9 agreement?

10 A. Yes.

11 Q. Good. That makes it really easy. So I take it  
 12 that your answers at least with respect to your  
 13 understanding of those provisions with respect to  
 14 the Samsung agreement would apply to the GoldStar  
 15 agreement as well?

16 A. Yes.

17 Q. Okay. Good job. Excellent. So we're now  
 18 through sometime in March of 1992, correct?

19 A. Mm-hmm. Mm-hmm.

20 Q. We're into March of 1992.

21 (5/15/92 letter and attachment marked  
 22 Exhibit No. 7.)

23 Q. I'm showing you what's been marked Exhibit No. 7,  
 24 which is a letter from Gwangho, G W A N G H O,

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1 A. Correct.

2 Q. And then in turn on the fax cover sheet is a  
 3 transmittal of this letter purportedly from  
 4 Howrey and Simon to Mr. Shanahan, right?

5 A. Yes.

6 Q. Who was the chief patent counsel inhouse at Wang?

7 A. Yes.

8 Q. So it was clear, though, to Wang that in order  
 9 for this license agreement to be effective the  
 10 government of Korea had to formally approve it?

11 A. I believe so, yes.

12 Q. Okay.

13 (Off the record.)

14 (5/15/92 letter and attachment marked

15 Exhibit No. 8.)

16 (6/26/92 letter marked Exhibit No. 9.)

17 Q. Okay. I'm going to show you what's been marked  
 18 Exhibits 8 and 9. First is dated May 15, 1992, a  
 19 letter from Michael Shanahan to Gwangho Kim at  
 20 Samsung. And it's 1651. And let's do this. Why  
 21 don't we take -- just take the last page off  
 22 because I think we've already marked that as an  
 23 exhibit.

24 MR. HARVELL: That's fine.

17 (Pages 62 to 65)



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<p style="text-align: right;">Page 90</p> <p>1 (Plaintiff GetronicsWang Co., LLC  2 Answers to Defendant Samsung Electronics Co.,  3 Limited First Set of Interrogatories marked  4 Exhibit No. 17.)  5 Q. This is Exhibit 17. And these are  6 GetronicsWang's answers to --  7 A. Yeah.  8 Q. -- Samsung's answers to interrogatories, correct?  9 A. Right. Yes.  10 Q. Okay. And let me just go to the next to the last  11 page.  12 A. What number?  13 Q. It actually doesn't have a number. Look for the  14 page that you signed it.  15 A. Yes.  16 Q. And you signed these on behalf of GetronicsWang  17 indicating that the answers were true to the best  18 of your knowledge, information and belief,  19 correct?  20 A. Yes.  21 Q. That's your signature?  22 A. Yes.  23 Q. Okay. Now, what I was referring to is in  24 interrogatory number three.</p>	<p style="text-align: right;">Page 92</p> <p>1 right?  2 A. Correct.  3 Q. So at that point, Wang was aware that the Korean  4 National Tax Administration said that the Hyundai  5 case could not be applied beyond its specific  6 case?  7 A. My understanding, based on what my understanding  8 was based on our correspondence with our outside  9 attorneys, is that the reason why they -- the  10 reason why they would not give the ruling is they  11 felt it would jeopardize their existing Competent  12 Authority cases on the outside. So it wasn't an  13 issue of whether or not the Hyundai case was  14 applicable to these cases. It was more in the  15 line with they were afraid they were going to  16 jeopardize whatever agreements they had going  17 with -- on the outside with the IRS involving  18 foreign source income with the IRS.  19 Q. Right. But for whatever reason they said, at  20 that point in time they informed your -- Wang's  21 counsel in Korea that you could not apply the  22 Hyundai case to the --  23 A. That's not what they said. They said they would  24 not give us a ruling on it.</p>
<p style="text-align: right;">Page 91</p> <p>1 A. Yes.  2 Q. And the answer to interrogatory number three was  3 "Between 7/9/92 and 7/28/92" -- so in July of  4 1992. At around the same time as this Getronics  5 -- as this GoldStar letter that we just looked  6 at, correct?  7 A. Yes.  8 Q. "That representatives of the Korean law firm Kim  9 &amp; Chang" -- this is the firm that was  10 representing Wang in Korea, correct?  11 A. Yes.  12 Q. Okay. "Contacted the National Tax Administration  13 in Korea to informally seek a ruling supporting  14 the Hyundai case," right?  15 A. Correct.  16 Q. And when you mean "supporting the Hyundai case"  17 in this answer, you mean trying to get a ruling  18 that the Hyundai case applied to the license  19 agreements between Wang and Samsung on the one  20 hand and GoldStar on the other, correct?  21 A. Correct.  22 Q. And it goes on to say that "The NTA, National Tax  23 Administration, declined to issue a ruling  24 confirming the Hyundai Supreme Court case,"</p>	<p style="text-align: right;">Page 93</p> <p>1 Q. And they certainly -- National Tax Administration  2 certainly didn't say that taxes shouldn't be  3 withheld under those agreements at that point in  4 time, correct?  5 A. They did not give us a ruling on it.  6 Q. Okay. They wouldn't give you a formal or an  7 informal ruling?  8 A. They said they would not give a ruling based on  9 the fact they felt it would compromise their  10 existing cases.  11 Q. Okay. And do you know whether or not your  12 counsel made inquiry at this time about whether  13 the Korean companies were required to withhold  14 taxes under the license agreements between Wang  15 and Samsung on the one hand and Wang and GoldStar  16 on the other?  17 A. Inquiries to who?  18 Q. I'm distinguishing now from the applicability of  19 the Hyundai case and asking you whether or not  20 you were aware or are aware based on knowledge or  21 investigation about whether Kim &amp; Chang on Wang's  22 behalf inquired of the National Tax  23 Administration as to whether or not the Korean  24 companies were required to withhold taxes in</p>

24 (Pages 90 to 93)

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1 connection with the Wang-Samsung and  
 2 Wang-GoldStar agreements?  
 3 A. I don't remember seeing anything, Bob, that  
 4 showed that, that in fact they asked specifically  
 5 whether or not withholding tax should be applied.  
 6 Q. Okay.  
 7 (7/11/92 letter marked Exhibit No. 18.)  
 8 Q. Exhibit 18 is a letter of July 11, 1992 from  
 9 Gwangho Kim at Samsung to Michael Shanahan. Can  
 10 you identify it as such?  
 11 A. Yes.  
 12 Q. Is this a document that you have reviewed in the  
 13 last period of time?  
 14 A. Yes. I believe I've gone through this.  
 15 Q. Okay. And have you discussed it with counsel?  
 16 Yes or no.  
 17 A. Yes.  
 18 Q. Okay. With anyone else?  
 19 A. No.  
 20 Q. Okay. And in this Samsung is -- there had been  
 21 correspondence in which Samsung had indicated  
 22 that unless notified in advance of July 10th by  
 23 Wang that it didn't need to pay the -- make the  
 24 withholding it was going to do so, correct?

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1 A. Correct.  
 2 Q. And it's indicating it had not received any  
 3 notification from Wang to that effect and was  
 4 therefore -- had withheld the taxes and paid them  
 5 to the Korean tax office on July 10th, correct?  
 6 A. Correct. Correct.  
 7 Q. And in fact, there wasn't any notification from  
 8 Wang to Samsung about the requirements of  
 9 withholding taxes, correct? You had sought a  
 10 ruling from the National Tax Administration in  
 11 the expectation that you could then send some  
 12 notice to Samsung and GoldStar that it didn't  
 13 need to withhold taxes but you never got such a  
 14 ruling, correct?  
 15 A. Correct. Correct.  
 16 Q. And so there was no notice. Wang didn't have  
 17 then the ability to send a notice indicating that  
 18 they had gotten some formal or informal ruling  
 19 from the Korean Tax Administration; is that  
 20 right?  
 21 A. I believe so.  
 22 Q. Okay.  
 23 (SIMM Withholding Tax marked Exhibit  
 24 No. 19.)

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1 (GoldStar document marked Exhibit No.  
 2 20.)  
 3 Q. I'm showing you two separate documents, 19 and  
 4 20, exhibits which appear to be summaries of  
 5 amounts paid in royalty and amounts withheld with  
 6 respect to both Samsung and GoldStar. The  
 7 Samsung agreement bears Bates stamp GW 701 and  
 8 the GoldStar's GW 983. Can you identify each as  
 9 such?  
 10 A. Yes.  
 11 Q. Now, these were documents created at some point  
 12 by Wang --  
 13 A. Correct.  
 14 Q. -- either as part of a Competent Authority  
 15 proceeding or after the Competent Authority  
 16 proceeding in order to determine what amounts  
 17 were purported to be due?  
 18 A. Correct.  
 19 Q. Okay. Actually, it's 10/18/95 on it?  
 20 A. Yes.  
 21 Q. Right around the time of the Competent Authority  
 22 proceeding?  
 23 A. Yes.  
 24 Q. We'll try to do this in a summary way. With

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1 respect to Samsung, this reflects the total  
 2 number of payments made by Samsung under the  
 3 royalty agreements, correct?  
 4 A. Correct.  
 5 Q. And in each instance it shows that a certain  
 6 amount of taxes were withheld?  
 7 A. Correct.  
 8 Q. Okay. And there's no dispute, I take it, that  
 9 those amounts in Korean won were sent by Samsung  
 10 to the Korean National Tax Service. No dispute  
 11 in this case?  
 12 A. Correct. Right.  
 13 Q. And that the total, this would be the total  
 14 number of won, that had been forwarded to the  
 15 Korean tax service by Samsung, that number of won  
 16 was in fact returned to Samsung, right?  
 17 A. I believe so, Bob.  
 18 Q. And that in turn, that amount of won was  
 19 converted by Samsung into US dollars?  
 20 A. Correct.  
 21 Q. At the date -- about the date it received it from  
 22 the National Tax Service, correct? Somewhere in  
 23 that time?  
 24 A. With some lag time.

25 (Pages 94 to 97)



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- 1 Q. At the then current exchange rate?  
 2 A. Correct.  
 3 Q. And then that total amount of US dollars were  
 4 forwarded to Wang by Samsung as its refund?  
 5 A. Correct.  
 6 Q. Okay. And with respect to GoldStar -- so this  
 7 indicates that the last payment by Samsung was in  
 8 1995. Is that correct?  
 9 A. Correct.  
 10 Q. And that's your understanding? That was the --  
 11 A. To the best of my knowledge.  
 12 Q. You don't have any reason to --  
 13 A. No, no.  
 14 Q. And also with respect to GoldStar, same -- my  
 15 same questions would apply.  
 16 A. Correct, Bob.  
 17 Q. That is, you have no reason to believe -- with  
 18 respect to each of the royalty payments made  
 19 there was a certain amount withheld --  
 20 A. Correct.  
 21 Q. -- and those dollars were forwarded by GoldStar  
 22 to -- in won to the Korean government, correct?  
 23 A. Correct.  
 24 Q. Korean government sent that money back at the end

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- 1 of the conclusion of the Competent Authority  
 2 proceeding to GoldStar in won?  
 3 A. Correct.  
 4 Q. GoldStar then converted those -- that won into US  
 5 dollars at the then current exchange rate,  
 6 correct?  
 7 A. Correct.  
 8 Q. And forwarded that total amount in US dollars to  
 9 Wang?  
 10 A. Correct.  
 11 Q. Okay. And just so it's clear for the record,  
 12 GoldStar by this point in time had changed its  
 13 name to LG Semicon Company?  
 14 A. Correct.  
 15 Q. And Wang was aware of that?  
 16 A. Correct.  
 17 MR. SHERMAN: We're actually going to  
 18 head towards Hyundai. Do you want to stop or do  
 19 you want to keep going for a little while?  
 20 MR. HARVELL: You're not going to  
 21 finish before lunch, I take it?  
 22 (Off the record.)  
 23 (9/18/90 letter marked Exhibit No. 21.)  
 24 Q. I'm showing you what's been marked as Exhibit No.

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- 1 21, which is a letter of September 18, 1990 to  
 2 Hyundai, H Y U N D A I, Electronics Industries  
 3 Company Limited from -- no. From Hyundai to  
 4 Michael Shanahan. And it's from MJ Yoon,  
 5 Y O O N, at Hyundai to Michael Shanahan. GW 929.  
 6 Can you identify it as such?  
 7 A. Yes.  
 8 Q. Okay. This is the first correspondence with  
 9 Hyundai that we have seen. Are you aware of  
 10 anything earlier?  
 11 A. No, I'm not.  
 12 Q. There must be something earlier because this is a  
 13 response to a letter from Wang but we don't have  
 14 it. You don't have it.  
 15 Okay. Fair enough.  
 16 A. Could not find it.  
 17 Q. No problem. Okay. In this Hyundai is indicating  
 18 that it's received a notice of infringement from  
 19 Wang and is studying the issue in essence,  
 20 correct?  
 21 A. Yes.  
 22 Q. And we presume this -- I take it that this notice  
 23 of infringement was --  
 24 A. No, it is.

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- 1 Q. -- with respect to the -- do you recognize these  
 2 as the SIMMs patents?  
 3 A. Yes.  
 4 Q. The '605, '513 and the '892 patents?  
 5 A. To the best of my knowledge, yes.  
 6 Q. Okay.  
 7 (SIMM Technology Patent License  
 8 Agreement marked Exhibit No. 22.)  
 9 Q. And this is Exhibit 22. It's a multi-page  
 10 document, GW 458 through 486. And it is  
 11 identified as the license -- SIMM Technology  
 12 Patent License Agreement between Wang and Hyundai  
 13 Electric. Electronics Industry Company Limited.  
 14 Can you identify it as such?  
 15 A. Yes.  
 16 Q. It's the executed copy, is it not?  
 17 A. Yes.  
 18 Q. Do you have any understanding of what, if  
 19 anything, happened between the time of Exhibit  
 20 No. 21, which was 1990, and June of 1993?  
 21 A. I do not.  
 22 Q. Okay. In any event, the license agreement wasn't  
 23 signed until then?  
 24 A. Correct.

26 (Pages 98 to 101)

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1 Q. Now, do you have any understanding about the  
 2 negotiation of this agreement?  
 3 A. No, I do not.  
 4 Q. Have you made any inquiry about the negotiation  
 5 of this agreement?  
 6 A. No, I have not.  
 7 Q. Do you have an understanding that in certain  
 8 respects the Hyundai agreement differs from the  
 9 Samsung and GoldStar agreements in its language?  
 10 A. It is --  
 11 Q. Well --  
 12 A. From my standpoint, the structure is different.  
 13 The paragraph's different. I've gone through it  
 14 but not substantially so --  
 15 Q. Not substantially different?  
 16 A. Yeah.  
 17 Q. Do you understand it -- now I mean testifying on  
 18 behalf of Wang, GetronicsWang -- to be in  
 19 substance the same?  
 20 A. That's my understanding, yes.  
 21 Q. Okay. Give me one second.  
 22 If you turn to page 475 and paragraph  
 23 6.10 --  
 24 A. Mm-hmm.

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1 Q. -- this is the counterpart, if you will, to the  
 2 provision in the Samsung and GoldStar agreement  
 3 about the withholding of taxes, correct?  
 4 A. Correct.  
 5 Q. This one says that "all taxes imposed as a result  
 6 of the existence or performance of this agreement  
 7 shall be borne and paid by the party required to  
 8 do so by applicable law."  
 9 Do you see that?  
 10 A. Yes.  
 11 Q. If you turn back to the Wang agreement,  
 12 Wang-Samsung agreement, it actually says that  
 13 they'll be paid by Wang. You can look back if  
 14 you want.  
 15 A. Okay.  
 16 Q. So that the language is a little different.  
 17 A. Okay.  
 18 Q. Do you have any understanding as to the reason  
 19 for difference in the language?  
 20 A. I do not.  
 21 Q. Notwithstanding that, do you understand these two  
 22 provisions to be, have the same -- to be the same  
 23 substantively?  
 24 A. I believe the intent of them to be.

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1 Q. Have you ever inquired as to anyone as to why  
 2 there is a difference in the language?  
 3 A. No, I have not.  
 4 Q. If you turn to 6.10, which we had already looked  
 5 at a bit, but --  
 6 A. Yes.  
 7 Q. This -- if you go on in 6.10 --  
 8 MR. HARVELL: Give us a minute.  
 9 A. Sorry about that. Okay.  
 10 Q. We looked at it earlier. It says, "Licensee  
 11 shall withhold from payments to Wang under this  
 12 agreement the amount of any national taxes levied  
 13 on licensee's payments hereunder by the Korean  
 14 government consistent with any Korea/United  
 15 States double taxation treaty."  
 16 That's not any of the language that we  
 17 saw in the earlier Samsung. Do you have any  
 18 understanding as to why that's --  
 19 A. I do not know why.  
 20 Q. Have you ever asked anybody?  
 21 A. I have not.  
 22 Q. Did you have an understanding that the Hyundai  
 23 agreement was indeed approved by the Korean  
 24 government? Let me give this to you so we don't

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1 have any mistake about it.  
 2 A. Okay.  
 3 (8/11/93 letter marked Exhibit No. 23.)  
 4 Q. It's a letter of August 11, '93 to Maggie  
 5 Mellonakos from DS Chung at Hyundai Electronics  
 6 Industries. Mr. Chung is informing Wang that the  
 7 Korean government has approved the license  
 8 agreement on August 6, 1993.  
 9 A. Correct.  
 10 Q. And as a result of that, that becomes the  
 11 effective date of the agreement?  
 12 A. Correct.  
 13 Q. Now, Wang was aware, was it not, that with  
 14 respect to payments made by Hyundai under the  
 15 license agreement that in each instance a certain  
 16 amount was withheld on Wang's behalf and paid to  
 17 the Korean Taxing Authority as withholding tax?  
 18 A. Wang was aware that there was withholding tax --  
 19 there was an amount withheld from that amount and  
 20 paid over to the Korean government.  
 21 Q. Each time?  
 22 A. Each time, yes.  
 23 (8/20/93 letter marked Exhibit No. 24.)  
 24 Q. This is a letter of August 20, 1993 from Michael

27 (Pages 102 to 105)

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<p style="text-align: right;">Page 114</p> <p>1 bankruptcy?</p> <p>2 A. It was -- we went into bankruptcy August 19,</p> <p>3 1992. We came out of bankruptcy on December -- I</p> <p>4 would like to say 17th, 1993.</p> <p>5 Q. I see. I thought it was a longer period than</p> <p>6 that. Okay. And was it Chapter 11?</p> <p>7 A. Yes, it was.</p> <p>8 Q. Okay. Now, at some point Wang made a decision to</p> <p>9 initiate a request for Competent Authority</p> <p>10 assistance to the United States, correct?</p> <p>11 A. Correct.</p> <p>12 Q. Were you involved in any of the Competent</p> <p>13 Authority proceedings until -- before it was</p> <p>14 concluded?</p> <p>15 A. My only involvement with the -- I was not</p> <p>16 involved with the original filing of the</p> <p>17 Competent Authority, Bob. I was involved, of</p> <p>18 course, once the Competent Authority had</p> <p>19 concluded but prior to that, I was not involved.</p> <p>20 I was aware that there was a Competent Authority</p> <p>21 ruling in effect. Especially as people started</p> <p>22 to leave the department, responsibilities started</p> <p>23 to shift so I was very much aware of what was</p> <p>24 going on from that standpoint.</p>	<p style="text-align: right;">Page 116</p> <p>1 whether or not the IRS, Internal Revenue Service,</p> <p>2 is intended to be the advocate for the United</p> <p>3 States company?</p> <p>4 A. My understanding is it's more of a review of the</p> <p>5 treaty between the two companies, countries, and</p> <p>6 based on the interpretation, based on the Korean</p> <p>7 side versus the US side of those two treaties. I</p> <p>8 don't believe the IRS is the real advocate other</p> <p>9 than to make sure the treaty that has been signed</p> <p>10 between Korea and the United States is fulfilled</p> <p>11 properly and that there's no double taxation or</p> <p>12 double jeopardy.</p> <p>13 Q. I'm just trying to mark this in time a bit.</p> <p>14 (10/24/95 handwritten note marked</p> <p>15 Exhibit No. 27.)</p> <p>16 Q. Exhibit 27 is a half a page of handwritten notes</p> <p>17 with a date of 10/24/1995. This -- first of all,</p> <p>18 do you recognize anybody's handwriting here?</p> <p>19 A. I do not, Bob.</p> <p>20 Q. Okay. Do you understand that this is a note</p> <p>21 somebody took about a potential Competent</p> <p>22 Authority request for assistance? This says six</p> <p>23 months to do Competent Authority.</p> <p>24 A. Yeah. They are mentioning that, along with some</p>
<p style="text-align: right;">Page 115</p> <p>1 Q. Had you been involved in any -- have you ever</p> <p>2 been involved in any Competent Authority request</p> <p>3 for assistance other than in this instance?</p> <p>4 A. Never.</p> <p>5 Q. You understand, I take it, that Competent</p> <p>6 Authority is not -- it's not a formal proceeding,</p> <p>7 correct?</p> <p>8 A. I understand. Yes.</p> <p>9 Q. You understand it's a negotiation?</p> <p>10 A. I understand.</p> <p>11 Q. And I'll refer to it as a diplomatic negotiation.</p> <p>12 Is that fair?</p> <p>13 A. I would say yes. Yes.</p> <p>14 Q. I take it that negotiation occurs between certain</p> <p>15 of the members of the taxing authority of the</p> <p>16 United States. In this instance, it's the</p> <p>17 Internal Revenue Service, correct?</p> <p>18 A. Correct.</p> <p>19 Q. And counterparts of the -- in this instance the</p> <p>20 Korean government?</p> <p>21 A. Korean tax department, yes. NTA.</p> <p>22 Q. The NTA. National Tax Administration?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. Do you have any understanding as to</p>	<p style="text-align: right;">Page 117</p> <p>1 other issues, I believe, up above.</p> <p>2 Q. Well, the other issues are -- I guess maybe we'll</p> <p>3 be forced to speculate, but it would appear that</p> <p>4 certain companies were -- there was an inquiry</p> <p>5 made about the availability of certain companies</p> <p>6 to assist in this Competent Authority proceeding.</p> <p>7 That may be the case and it may not.</p> <p>8 A. Yeah. I'm not sure.</p> <p>9 Q. I know you told me who Stephen Waystack is and</p> <p>10 who Jim Boudreau is. Who is Pat DiLuca?</p> <p>11 A. Pat is -- she is -- her role is -- she is in the</p> <p>12 cash -- cash management group. They handle all</p> <p>13 the cash receipts as they come in. And she is</p> <p>14 really just a clerk, Pat, and she takes checks as</p> <p>15 they come in and she makes sure they get -- if</p> <p>16 any monies come in, they get appropriated</p> <p>17 properly, proper costs and proper accounts.</p> <p>18 Q. I got you. Okay. I think we'll get a little</p> <p>19 further with that one. That's October, 1995,</p> <p>20 correct?</p> <p>21 A. Yeah.</p> <p>22 Q. Okay.</p> <p>23 (12/19/95 E-mail marked Exhibit No.</p> <p>24 28.)</p>

30 (Pages 114 to 117)

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1 the royalty, right?

2 A. Yes.

3 Q. 803,987. The amount withheld in US dollars,

4 correct?

5 A. Correct.

6 Q. The exchange rate. And -- which shows it being

7 different at the two times of payment. One time

8 in August of '93 and the other in March of '95?

9 A. Correct.

10 Q. Right? And what the total withheld in won was,

11 right?

12 A. Correct.

13 Q. So he's basically telling you that the

14 calculation by the NTS is just different than the

15 one you've provided?

16 A. I understand what he's doing, yes.

17 Q. I know you don't agree. That's very clear

18 because we have documents which show that. And

19 here it is, by the way. Okay. I'm not trying to

20 trick you. I know you don't agree.

21 (1/3/02 letter marked Exhibit No. 39.)

22 Q. I show you Exhibit 39, which is a one-page

23 letter, your letter to Mr. Chung, January 3,

24 2002, bearing Bates stamp number HYN 72. And you

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1 can identify it as such?

2 A. Yes.

3 Q. You received it at the time?

4 A. Yes.

5 Q. It should be 2003, shouldn't it?

6 A. Yes.

7 Q. No. Yes. January 3, 2003. I'm sorry. You're

8 absolutely right. Hadn't gotten there yet.

9 Hadn't changed the date electronically?

10 A. Yes.

11 Q. But this is in direct response to the letter we

12 just saw of December 30th?

13 A. Yes, yes.

14 Q. And you are indicating to Mr. Chung that you

15 basically are contesting the -- his position of

16 the amount that will be refunded will be

17 different because of the currency rate

18 fluctuation, correct?

19 A. Correct.

20 Q. In essence?

21 A. Yes.

22 Q. You say in the paragraph that begins "Relative to

23 the amount to be refunded," you reference

24 paragraph 6.4 of the SIMM license. And then you

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1 say, "Since the royalty, original royalty payment

2 was made in US dollars and the tax withheld was

3 in US dollars, then one can reasonably expect the

4 tax refunded will be in US dollars at its value

5 at the time of the original royalty payment."

6 What was the basis for you to say you

7 could expect that? "One could reasonably expect

8 that." In other words, let me be more precise in

9 my question. Is that your -- is that based

10 exclusively on your interpretation of section

11 6.4?

12 A. Yes.

13 Q. Okay. And no other source?

14 A. No other source.

15 Q. Okay.

16 (1/14/02 letter mark Exhibit No. 40.)

17 Q. I show you what's been marked Exhibit 40, a

18 letter from Mr. Chung to you, January 14, 2002.

19 This should be December -- January of 2003 as

20 well, correct?

21 A. Correct.

22 Q. Okay. And this is a response to your letter we

23 just looked at, Exhibit 39 of January 3, 2003,

24 correct?

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1 A. Correct.

2 Q. Mr. Chung responds that, quote, We paid our

3 royalty in United States dollars after

4 withholding Korean taxes as required under

5 section 6.4 and 6.1 of the SIMM license. Thanks

6 to the agreement between US IRS and Korean NTS,

7 however, you are now to receive those taxes

8 withheld by Korean NTS. Since we serve only as a

9 conduit for the refund of those taxes to Wang, we

10 will refund just as much as our NTS does to us.

11 Now, you understood ultimately that

12 that is what happened; that is to say, that Hynix

13 refunded to Wang everything that the NTS refunded

14 to Hynix on Wang's behalf?

15 A. Correct. We understood that. They refunded back

16 to us everything that they had originally

17 withheld from the Wang payment to the NTS back to

18 us.

19 Q. Okay. And I take it you understood that the NTS

20 didn't pay any interest to Hynix on those

21 payments?

22 A. That's my understanding based on these letters

23 back from the various --

24 Q. And you have no reason to --

39 (Pages 150 to 153)